

立法會 *Legislative Council*

LC Paper No. LS24/12-13

Paper for the House Committee Meeting on 22 February 2013

Legal Service Division Report on District Councils (Amendment) Bill 2013

I. SUMMARY

- 1. The Bill**

The Bill introduces amendments to the District Councils Ordinance (Cap. 547) (DCO) and other relevant subsidiary legislation to abolish the system of appointing members to the District Councils (DCs) by the Chief Executive with effect from 1 January 2016, i.e. the commencement date of the fifth term of office of DCs.
- 2. Public Consultation**

Public consultation was conducted from 20 February 2012 to 20 April 2012. The views received and the opinion polls conducted indicated that the community supported the abolition of all DC appointed seats over one term.
- 3. Consultation with LegCo Panel**

The Constitutional Affairs (CA) Panel was informed on 19 November 2012 of the Administration's plan to amend the DCO to provide for the abolition of DC appointed seats and was consulted on the legislative proposal on 21 January 2013. Members in general expressed support for the proposal but some of them considered that the ex officio seats in DCs should also be abolished over one term.
- 4. Conclusion**

No difficulties in the legal and drafting aspects have been identified.

In the light of the views of the members of the CA Panel, Members may wish to consider whether a Bills Committee should be formed to scrutinize the Bill.

II. REPORT

The date of First Reading of the Bill is 20 February 2013. Members may refer to the LegCo Brief (File Ref.: CMAB C2/7) issued by Constitutional and Mainland Affairs Bureau on 6 February 2013 for further details.

Object of the Bill

2. The Bill introduces amendments to the District Councils Ordinance (Cap. 547) (DCO) and other relevant subsidiary legislation to abolish the system of appointing members to the District Councils (DCs) by the Chief Executive (CE) with effect from 1 January 2016, i.e. the commencement date of the fifth term of office of DCs.

Background

3. At present, a DC consists of elected members, members appointed by CE and, where the district concerned has any Rural Committee, ex officio member(s)¹.

4. In 2010 when the Administration put forward a constitutional reform package which proposed amendments to the methods for selecting CE, the Administration undertook to put forth proposals concerning the abolition of the system of appointing members to DCs by CE. In September 2011, the Administration announced that the appointment system would be abolished in phases. The first phase was introduced by reducing the number of appointed seats for the fourth DC commencing on 1 January 2012 by one-third to 68. A public consultation on the abolition of the remaining appointed seats was conducted subsequently which showed that the community supported their abolition over one term. In the 2013 Policy Address, CE announced that legislative amendments would be introduced to abolish all DC appointed seats from 2016 onwards.

Provisions of the Bill

5. The Bill aims at giving effect to the removal of DC appointed seats and the appointment system. It consists of three parts. Part 1 contains preliminary provisions, which provide, among other things, that the Bill shall come into operation on 1 January 2016 upon enactment.

¹ Section 9(1)(c) of DCO provides that if it is a DC established for a district in which there is one or more Rural Committees, the Chairman of each such Rural Committee are ex officio members of that DC.

6. Part 2 introduces amendments to DCO which –
 - (a) by repealing Division 1 of Part IV (sections 11 to 16 of DCO), remove the power of the CE to appoint persons as appointed members of DC and other relevant provisions such as the eligibility for appointment as appointed members;
 - (b) repeal the column with the heading "Number of appointed members", which specifies the maximum number of members to be appointed to the respective DCs, in Part 1 of Schedule 3 to DCO; and
 - (c) remove any references to "appointed members" in DCO.

7. Part 3 introduces consequential amendments to the following items of subsidiary legislation to remove references to those provisions of Division 1 of Part IV of DCO that will be repealed by Part 2 of the Bill upon its enactment –
 - (a) the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap. 541 sub. leg. A);
 - (b) the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541 sub. leg. B); and
 - (c) the Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg. B).

Other Observations

8. The amendments introduced by the Bill are technical in nature. Provisions in DCO concerning elected members and ex officio members remain unchanged.

Public Consultation

9. According to the LegCo Brief, public consultation was conducted from 20 February 2012 to 20 April 2012. The views received and the opinion polls conducted indicated that the community supported the abolition of all DC appointed seats over one term.

Consultation with LegCo Panel

10. The Clerk to the Panel on Constitutional Affairs (CA) has advised that the Panel was informed on 19 November 2012 of the Administration's plan to amend DCO to provide for the abolition of DC appointed seats with effect from the fifth term of office of DCs and was consulted on the legislative proposal on 21 January 2013. Members in general expressed support for the proposal. Some members, however, considered that the Administration should also abolish the ex officio seats in DCs in tandem with the appointed membership in one go. Some members urged the Administration to review the number of elected seats and the demarcation of the constituency boundaries for the fifth term of office of DCs as early as possible.

Conclusion

11. No difficulties in the legal and drafting aspects have been identified.

12. In the light of the views of members of the CA Panel, Members may wish to consider whether a Bills Committee should be formed to scrutinize the Bill.

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